

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1300 OF 2005

The State of Maharashtra ...Applicant

vs.

Govind Shantaram Dhotre and ors. ...Respondents

Ms S.V.Gajare, A.P.P. for the Applicant

CORAM: A.S.OKA, J.
DATE : NOVEMBER 16, 2006.

P.C.:

1. Heard learned A.P.P. for the Applicant. The acquittal of the Respondents is for offence punishable under sections 420, 467, 385, 504, 506 read with section 34 of the Indian Penal Code.

2. I have perused the record and the impugned Judgment and Order. The prosecution case is based on an agreement at Exh.50 executed by and between the third Respondent, complainant and the original owner of the land. The case of the complainant is that in the said agreement at Exh.50, it is provided that flat no.12 on fourth floor in the proposed building to be constructed by the third Respondent was agreed to be kept reserved for the complainant. In paragraph 7 of the impugned Judgment, the learned Trial Judge has noted the admission of the complainant in his cross examination that the

agreement at Exh.50 does not refer to reservation of the flat No.12 in his favour.

3. Reliance was placed on the receipts at Exh. 51 to 56 which show that the third Respondent accepted the amounts received towards the price of flat No.12 from the second Respondent. The case of the prosecution is that the Respondents have fabricated the said receipts with the dishonest intention of cheating the complainant.

4. The entire case of the complainant is based on alleged stipulation in the agreement at Exh.50 by which the flat No.12 on the fourth floor of the proposed building was agreed to be reserved for him. It is found that as a matter of fact there is no such clause in the agreement.

5. The learned Trial Judge has considered the evidence of all the prosecution witnesses. The learned Judge found that the P.W.No.5 did not fully support the prosecution. The learned Judge therefore acquitted the Respondents. The conclusions drawn by the learned Trial Judge are possible conclusions to be drawn on the basis of the evidence on record. No case is made out for grant of leave. Application is rejected.

JUDGE